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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

KENNETH L. SCHROEDER,

Defendant.

Case No. C-07-3798-JW (HRL)

**JOINT STIPULATION AND
~~PROPOSED~~ ORDER CONCERNING
EXPERT DISCOVERY PROTOCOLS**

Courtroom: 2
Judge: The Hon. Howard Lloyd

1 WHEREAS, the parties anticipate retaining various expert witnesses to testify in the
2 above-captioned action (the "Expert" or "Experts"); and

3 WHEREAS, the period in which to conduct discovery in this action has commenced, and
4 the parties desire to establish the following protocol to govern expert witness discovery in this
5 action pursuant to the Federal Rules of Civil Procedure, Local Rules of this Court and any other
6 applicable rules.

7 IT IS HEREBY STIPULATED AS FOLLOWS:

8 1. The parties' Experts will identify in any final expert report disclosed pursuant to
9 Rule 26(b) of the Federal Rules of Civil Procedure, or any expert declaration or expert
10 submission, the data or other information considered by the Experts in forming their opinions
11 (collectively, "Expert Materials"), except as provided herein.

12 2. Each party shall provide a copy of all Expert Materials to all other parties,
13 provided, however, that copies of (a) those Expert Materials produced in the course of fact
14 discovery shall be identified by Bates number or deposition exhibit number (if a document) or
15 deponent name (if a deposition transcript), and (b) readily accessible treatises and other source
16 materials need not be provided, unless specifically requested by a party. The parties also shall
17 produce documents sufficient to show the compensation for the Expert's report or testimony.
18 The deadline for a party to comply with the obligations of this paragraph and to produce copies
19 of Expert Materials is five business days after production of the pertinent report of the party's
20 Expert.

21 3. To the extent that the Expert Materials contain exhibits, information or data
22 processed or modeled by computer at the direction of an Expert in the course of forming the
23 Expert's opinions, machine readable copies of the data along with the appropriate computer
24 programs and instructions shall be produced, provided that the following need not be produced:
25 (a) computer programs that are reasonably commercially available; and (b) databases and
26 computer programs that (i) are used in the ordinary course of the expert's or a party's business
27 and (ii) are not practicable to copy, or are copyright protected, so long as reasonable access is
28 timely offered for purposes of, among other things, replication and analysis of disclosed results.

1 4.

2 a. The parties agree that the Experts shall not be required to produce, or to
3 identify among their Expert Materials, any drafts of the Experts' reports,
4 declarations or other similar submissions.

5 b. The parties also agree that the Experts are not required to produce, or
6 identify among their Expert Materials, any notes, correspondence or
7 communications between the expert and the designating party's counsel
8 made after the production of their respective reports, nor any such notes,
9 correspondence or communications with counsel regarding any draft
10 report.

11 5. Documents required to be produced may be redacted to exclude all but the
12 materials required to be disclosed.

13 **IT IS SO STIPULATED.**

14 Schroeder's undersigned counsel of record, R. James Slaughter, hereby attests that
15 Susan F. LaMarca concurs in the filing of this stipulation, in accordance with General Order
16 No. 45, *Electronic Case Filing*, section 10(b).

17
18 Dated: April 13, 2010

KEKER & VAN NEST LLP

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21 By: /s/ R. James Slaughter
22 R. JAMES SLAUGHTER
Attorneys for Defendant
KENNETH L. SCHROEDER


23 Dated: April 13, 2010

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26 By: /s/ Susan F. LaMarca
27 SUSAN F. LaMARCA
Attorneys for Plaintiff
28 SECURITIES AND EXCHANGE
COMMISSION

~~PROPOSED~~ ORDER

Pursuant to stipulation, IT IS SO ORDERED.

Dated: April 21, 2010



HON. HOWARD R. LLOYD
UNITED STATES MAGISTRATE
JUDGE